IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 634 OF 2005

IN

SUMMARY SUIT NO. 1982 OF 2005

Mr. Ishwarlal P. Sheth ....Plaintiffs.

vs.

Mr. Pradip P. Sheth .....Defendants

Mr. Sameer M. Tendulkar

for the plaintiffs.

Mr. Birendra Saraf i/by.

M/s. Kartikeya and Associates

for the defendants.

CORAM: SMT. NISHITA MHATRE, J.

DATE : 27TH MARCH, 2006.

P.C. :

1. This Summons for Judgment has been taken out contending that the suit should be tried as a

Summary suit. Admittedly the plaintiffs in the plaint did not show that the amount claimed by the plaintiff was allegedly advanced by the plaintiff to the defendant on the basis of any writing. No document has been produced on record to show that the suit is based on a document. The entire pleadings indicate that it was on an alleged oral agreement that the plaintiff had advanced an amount of Rs.15 lacs to the defendants.

2. In such circumstances this suit cannot be tried as a Summary Suit. Suit to be tried as regular suit. Suit is transferred to the list of Commercial Causes. Written statement or points of defence to be filed four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.

****